



2026:CGHC:1911-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 1426 of 2024**

Narendra Sao S/o Santosh Sao Aged About 23 Years R/o Village
Tamnar, Khelepara, P.S. Tamnar, District Surguja, Chhattisgarh

... Appellant**versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Darima, District Surguja, Chhattisgarh.

... Respondent(s)

For Appellant : Ms.Sangeeta Soni, Advocate

For Respondent : Mr.Shailendra Sharma, Panel Lawyer

Hon'ble Shri Justice Ramesh Sinha, Chief Justice and**Hon'ble Shri Justice Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, CJ****13/1/2026**

1. This criminal appeal arises out of the judgment of conviction and order of sentence dated 22.6.2024 passed by the Additional Sessions Judge, Fast Track Special Court (POCSO Act), Ambikapur in Special POCSO Case No.52/2022, whereby the appellant has been convicted for offence under Section 363 & 376(3) of the Indian Penal Code (hereinafter called as "IPC") and

Section 3 & 4(1) & (2) of the Protection of Children from Sexual Offences Act, 2012 (hereinafter called as "POCSO Act") and sentenced to undergo RI for three years and fine of Rs.100/-, in default of payment of fine to further undergo RI for six months, RI for twenty years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for one year and RI for twenty years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for one year.

2. The complainant / father of the victim (PW-2) has appeared through DLSA, Surguja and objected for grant of bail to the appellant.
3. The prosecution story, in brief, is that the victim's father filed a written report (Ex.P-6) at the Darima Police Station stating that on 12.04.2022, his minor daughter left home on the pretext of going to school and did not return home until 12 o'clock, even after school was over. When the victim was not found after searching the school and nearby place, the police station was informed that the victim had been lured and taken away by the said unknown person. On the basis of written complaint submitted by the victim's father, a First Information Report was registered under Section 363 of the IPC under Crime No.66/2022 at Darima Police Station vide Ex.P-7. The victim was recovered on 14.04.2022 vide recovery panchnama Ex.P-2. Consent for medical examination was obtained from the victim and her father vide Ex.P-3.

Statement of the victim under Section 164 CrPC was recorded before the JMFC, Ambikapur vide Ex.P-5. Spot map was prepared by the investigating officer vide Ex.P-8. The appellant was arrested on 26.05.2022 vide arrest memo Ex.P-9. MLC of the victim was done by the doctor vide Ex.P-10. Dakhil kharij register in which date of birth of the victim has been mentioned as 15.12.2007 was seized vide Ex.P-13. Certified copy of dakhil kharij register was seized vide Ex.P-14. The appellant was also examined by the doctor vide Ex.P-17 in which he was found capable of doing sexual intercourse. Seized articles were sent to FSL for chemical examination and as per FSL report (Ex.P-19), semen stains and human sperm were found in Article A vaginal slide and Article B panty seized from the victim. After completion of investigation, charge-sheet was filed before the jurisdictional criminal Court under Section 363 & 376(3) of the IPC and Sections 3 & 4(1) & (2) of the POCSO Act

4. In order to establish the charge against the appellant, the prosecution examined as many as 9 witnesses and exhibited 19 documents. The statement of the appellant under Section 313 of CrPC was also recorded in which he denied the material appearing against him and stated that he is innocent and he has been falsely implicated in the case.

5. After appreciation of evidence available on record, learned trial Court has convicted and sentenced the appellant as mentioned in para 1 of the judgment. Hence, this appeal.

6. Learned counsel for the appellant submits that the impugned judgment of conviction (Annexure A-1) passed by the learned Trial Court is contrary to the facts, circumstances, and evidence available on record and, therefore, is unsustainable in the eyes of law and liable to be set aside. The appellant has been falsely implicated in the present case. The prosecution has utterly failed to prove its case against the appellant, and the complaint itself is false, baseless, and motivated. Learned Trial Court has failed to properly appreciate and consider the material evidence available on record and has mechanically convicted the appellant, which is contrary to settled principles of criminal jurisprudence. She further submits that the appellant is a young student aged about 23 years, and the complaint has been lodged against him without any specific or cogent reason, based on false and unfounded allegations. The appellant has not committed any of the offences alleged by the prosecution. The learned Trial Court has erroneously relied upon the testimonies of the father of the victim (PW-2) and the mother of the victim (PW-4), who are highly interested witnesses. Their statements are unreliable, untrustworthy, and unsupported by independent or corroborative evidence. She also submits that the judgment of conviction and order of sentence passed by the learned Trial Court are illegal,

arbitrary, and bad in the eye of law. There are material contradictions and omissions in the statements of the prosecution witnesses, which go to the root of the matter. However, the learned Trial Court failed to properly scrutinize and appreciate these vital inconsistencies before recording the conviction. The prosecution has miserably failed to prove its case against the appellant beyond all reasonable doubt. Consequently, the appellant is entitled to the benefit of doubt. She contended that the conviction of the appellant for the alleged offences under Sections 363 and 376(3) of the IPC and Sections 3 and 4(1)(2) of the POCSO Act is not made out on any count of law or evidence. The learned Trial Court convicted the appellant without due consideration of the material evidence on record and without applying its judicial mind. On a careful examination of the evidence and material available on record, no offence under Sections 363 and 376(3) of the IPC and Sections 3 and 4(1)(2) of the POCSO Act is made out against the appellant. Hence, it is prayed that this Court may be pleased to allow the appeal and set aside the impugned judgment of conviction and order of sentence, thereby acquitting the appellant of all charges.

7. On the other hand, learned counsel for the State opposes the submissions made by learned counsel for the appellant and submits that the trial Court has rightly convicted and sentenced the appellant, in which no interference is called for by this Court.

8. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
9. The first question for consideration before this Court would be, whether the trial Court is rightly held that on the date of incident, the victim was minor?
10. When a person is charged for offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredients to prove such charge and the gravity of the offence gets changed when the child is below 18 years, 12 years and more than 18 years. Section 2(d) of the POCSO Act defines the "child" which means any person below the age of eighteen years.
11. In the present case, the prosecution has seized dakhil-kharij register of the victim (Ex.P-14), on which her date of birth is mentioned as 15.12.2007 and since defence has not challenged the documentary and oral evidence presented by the prosecution regarding the victim's date of birth being 15.12.2007, it is established that the age of the victim on the date of incident i.e. 12.04.2022 is 14 years, 3 months and 28 days. Thus, at the time of the incident, the victim is a minor girl below 18 years of age.
12. The next question for consideration before us is whether the appellant has committed rape on minor victim ?

13. Rape has been defined in Section 375 of the IPC as follows :

“375. Rape.-- A man is said to commit "rape" if he--

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. With or without her consent, when she is under eighteen years of age.

Seventhly. When she is unable to communicate consent.

Explanation 1. For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1. A medical procedure or intervention shall not constitute rape.

Exception 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.”

14. The victim has been examined as PW-1. In para 2 of her statement, she stated that her date of birth is 15.12.2007. She has studied up to class VIII. The incident occurred on 12.04.2022. She was on her way to her school, Kanthi to take an exam. Accused Narendra Sao arrived on his motorcycle and after luring her and promising to marry her, took her to his home in Tamnar. From there, he took her to Punjipathra, District Raigarh where the appellant kept her in a rented room and stated that he wanted to marry her and forcibly did wrong things (rape) with her. In para 4 of her statement, she stated that when she told the accused that she wanted to go home, the accused started threatening to kill her. Due to fear of the said threat, she lived with the accused. After about one and a half months, she was sitting and crying near Banjari temple, when some people came to her there, then she asked for their phone and called her father in village Kanthi, then her father and her grandfather came with the police of Darima Police Station and brought her to Darima Police Station. She told her father and grandfather about the incident. Accused Narendra Sao raped her forcibly by deceiving her false promise of marriage. In para 5 of her statement, she has stated that the police had prepared a seizure panchnama after meeting her, the said seizure panchnama is Ex.P-1. The police had prepared a

recovery panchnama, the said recovery panchnama is Ex.P-2. In para 11 of her cross-examination, she admitted that she did not tell the police about meeting the accused on the way. The witness voluntarily said that the accused had forbidden her, hence, she did not tell the police. She denied that she took a bus from Ambikapur to Pathalgaon. She has also denied that she went to Lailunga from Pathalgaon on her own. She has also denied that after reaching Lailunga, she called the accused but the accused did not come to pick her up. In para 12 of her cross-examination, she admitted that when she was sitting near Banjari temple, some people there asked her and she told them. She admitted that the people present there informed Punjipathra Police Station and then the police arrived. She also admitted that after that, the police from Darima Police Station came to Punjipathra. She denied that the accused did not force her or lure her into marriage. She also denied that the accused never threatened to kill her.

- 15.** Father of the victim (PW-2) has stated in para 10 of his evidence that the victim told him that the accused forcibly raped her, promising to marry her. He admitted that when she wanted to go home, the accused would assault her and threaten to kill her.
- 16.** Smt. Gyanti Goutam (PW-5), Headmistress of Middle School, Kanthi, has stated in para 5 of her statement that she has brought with her the original dakhil kharij register, which has the victim's date of birth recorded as 15.12.2007 on serial number 947. The

original dakhil kharij register is Ex.P-14. The attested copy she has provided is Ex.P-14C. The victim enrolled in Class 6th at their school on 24th June, 2019.

17. In the Indian society refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the sine qua non for conviction in a rape case. The observations of Vivian Bose, J. in **Rameshwar v. The State of Rajasthan (AIR 1952 SC 54)** were:

“The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge...”.

18. A victim of a sex-offence cannot be put on par with an accomplice.

She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the victim. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short 'Evidence Act') similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the Court is hesitant to place implicit reliance on the testimony of the victim it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the victim must necessarily depend on the facts and circumstances of each case. But if a victim is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the

case discloses that the victim does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

19. The Supreme Court in the matter of **Ranjit Hazarika v. State of Assam, AIR 1998 SC 635** has held that the evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice.

20. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent

with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have correlation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

21. The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand, (2022) 5 SCC 419** has held as under:-

“17. Keeping in mind the aforesaid objects and to achieve what has been provided under Article 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be dealt with in a stringent manner and no leniency should be shown to a person who has committed the offence under the POCSO Act. By awarding a suitable punishment commensurate with the act of sexual assault, sexual harassment, a message must be conveyed to the society at large that, if anybody commits any offence under the POCSO Act of sexual assault, sexual harassment or use of children for pornographic purposes they shall be punished suitably and no leniency shall be shown to them. Cases of sexual assault or sexual harassment on the children are instances of perverse lust for sex where even innocent children are not spared in pursuit of such debased sexual pleasure.

18. Children are precious human resources of our country; they are the country's future. The hope of tomorrow rests on them. But unfortunately, in our country, a girl child is in a very vulnerable position. There are different modes of her exploitation, including sexual assault and/or sexual abuse. In our view, exploitation of children in such a manner is a crime against humanity and the society. Therefore, the

children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas.

19. As observed and held by this Court in **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745**, children need special care and protection and, in such cases, responsibility on the shoulders of the Courts is more onerous so as to provide proper legal protection to these children. In **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, it is observed by this Court that a minor who is subjected to sexual abuse needs to be protected even more than a major victim because a major victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crimes against minor victims are not even reported as very often, the perpetrator of the crime is a member of the family of the victim or a close friend. Therefore, the child needs extra protection. Therefore, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a court of law.”

22. Considering the statement of the victim (PW-1) who has specifically stated the conduct of the appellant, the statement of her father (PW-2), FSL report (Ex.P-19), material available on record and the law laid down by the Supreme Court in the above-stated judgments, we are of the considered opinion that learned Special Judge has rightly convicted and sentenced the appellant

for the above-mentioned offences. We do not find any illegality and irregularity in the findings recorded by the trial Court.

23. In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the Special Judge to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.

24. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

25. Registry is directed to send a certified copy of this judgment along with the original record of the case to the trial court concerned forthwith for necessary information and compliance and also send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court, if so advised, with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice